

7/30/74
JEP:SRB:PAD:mtr
BJ 166-01203

JUL 31 1974

Mr. Don A. Freeman, Esq.
P. O. Box 232
Greenville, Georgia 30222

Dear Mr. Freeman:

This is in reference to your submission to the Attorney General, pursuant to Section 3 of the Voting Rights Act of 1965, of Act 1046 of the 1970 Session of the Georgia General Assembly, which changed the method of electing County Commissioners of Marietta County. This submission was originally received on August 16, 1971. We requested additional information, which was received on July 20, 1974.

After a careful examination of all the facts and an analysis of recent court decisions, we are unable to conclude, as we must under the Voting Rights Act that the change to at-large elections will not have a racially discriminatory effect. Under the pre-1970 method of electing Commissioners, Districts 1 and 2 would have black population majorities; under the new plan, all Commissioners are elected from the entire County, which is 32% white. Recent Supreme Court decisions, to which we feel obligated to give great weight, indicate that the change would have the effect of abridging minority voting rights in Marietta County. The reasoning of these recent cases is illustrated by the Supreme Court's decision in June of 1973 which held that the multi-member election system, numerical post and majority vote requirement of Dallas and Tarrant Counties, Texas, tended to abridge minority voting power and therefore violated the Fourteenth Amendment. White v. Regester, 412 U.S. 755 (1973). See, also, Whitcomb v. Chavis, 403 U.S. 124 (1971), Burger v. McKeithen 403 F.2d 1297 (5th Cir. 1973) and Turner v. McKeithen 490 F.2d 191 (5th Cir. 1973).

For the foregoing reasons, I must on behalf of the Attorney General interpose an objection to the change to at-large elections in Meriwether County. We have reached this conclusion reluctantly because we fully understand the complexities involved in devising a plan of this nature so as to satisfy the needs of the county and its citizens and simultaneously, to comply with the mandates of the Federal Constitution and laws. We are persuaded, however, that the Voting Rights Act compels this result.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that the change does not have a racial purpose or effect.

Sincerely,

J. STANLEY POSTLEGER
Assistant Attorney General
Civil Rights Division

OCT 25 1974

Mr. Henry J. Barnes
County Commissioner
Northwest County
Greenville, Georgia 30222

Dear Mr. Barnes:

This is in reference to your request for reconsideration by the Attorney General of his July 31, 1974, objection to changes in the method of electing County Commissioners in Northwest County, pursuant to 28 C.F.R. §51.23. Your request for reconsideration was presented to us together with supporting information on October 16, 1974.

We have made a re-evaluation of the change from district to at-large election of commissioners combined with the majority vote and designated post requirements in light of the additional information presented by you and supported by black as well as white citizens of Northwest County. This information shows that even though, as noted in our July 31 letter of objection, Districts 1 and 2 have black population majorities, the black population generally is dispersed throughout the County, and that the northern two-thirds of the County, which contains these two black majority districts, is more sparsely populated than the southern one-third, thus making the delineation of district boundaries to comply with the one-man/one-vote requirement unfeasible. The information presented by you additionally shows that there exists no firm rule of racial block voting in Northwest County, and that the majority and designated post requirements are desirable to assure that the entire County, rather than just particular areas, will be assured representation. Again, we note that these areas were supported by leaders of the black community who accompanied you and we have been unable to discover any opposing views in the black community.

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As we stated in our July 31, 1974, letter to County Attorney Ben Freeman, the general rule under recent court decisions is that multi-member election systems combined with majority and numbered post requirements similar to the system presently employed by Maricopa County tend to abridge minority voting power. The submission of this matter was not completed until July 26, 1974, and, in view of the then pending August 13 primaries we made every effort to expedite our consideration. Thus, in reviewing the facts available to us at that time we applied the general rule and concluded that an objection was appropriate. However, after considering the special circumstances of Maricopa County recited above, the Attorney General will not impose any further objection to your submission of July 26, 1974 and the objection to your submission in my letter of July 31, 1974, is hereby withdrawn.

However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

Sincerely,

J. STANLEY FOLKINGER
Assistant Attorney General
Civil Rights Division